

From: Blanco-Gonzalez, Joel
Sent: Monday, March 23, 2015 3:16 PM
To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>
Subject: RE: VA NPDES CAFO Permits

Betsy,

Thank you for our conversation today. As promised, below, please find the following for your information. There are CAFOs located in and out of the Chesapeake Bay watershed. As a recommendation we should identify and assign the decision-facilitating function and decision-influence function during the decision-making process to help better develop a schedule for permit development and issuance.

Delaware's NPDES CAFO general permit for poultry facilities that do not use land application for manure (draft version incorporating EPA's most current comments and recommendations)

PART I.A. GENERAL DESCRIPTION OF DISCHARGES AND FACILITIES

1. Large and Medium Poultry CAFO's in Delaware that Discharge to Waters of the State shall have an NPDES CAFO discharge permit issued by DNREC under both State and Federal permitting authority.
2. Total Maximum Daily Load (TMDL):

Permit requirements are consistent with existing and applicable TMDLs for impaired water bodies. The permittee shall continue to implement all BMPs currently in place and shall implement any additional BMPs required by the permittee's AWMP/NMP and this permit. The Department may require additional BMP's to minimize phosphorus and nitrogen transport to waters of the state as a requirement of this permit. For Large and Medium Poultry CAFOs within the Chesapeake Bay watershed, BMPs have been identified in Delaware's Phase II Watershed Implementation Plan (WIP) as specific production area practices to meet Agricultural Waste Load Allocations (WLAs). Such BMPs may include, but are not limited to: Nutrient Management Compliance; Soil Conservation and Water Quality Plans; Heavy Use Poultry Area Pads; Livestock Waste Structures; Manure Relocation; Poultry Waste Structures; Mortality Composters; Streamside Grass Buffers; Streamside Forest Buffers; Wetland Restoration, and; Shoreline Erosion Control.

Maryland's NPDES CAFO general permit

PART VII. GENERAL CONDITIONS

- K. Total Maximum Daily Loads. Permit requirements are consistent with existing Total Maximum Daily Loads (TMDLs) for impaired water bodies. Additional TMDLs and

waste load allocations (WLAs) may be determined for nutrients in tidal waters. If the WLA assessment for nutrients in tidal waters or a later assessment of the wastewater discharged from these operations indicates that WLAs are required, additional or alternative controls or monitoring may be required.

1. Best management practices (BMPs) for AFOs are identified in the operation's Required Plan(s) which may include a CNMP, NMP, and Conservation Plan. At a minimum, the permittee shall implement these BMPs as specified in the Required Plan(s).
2. In order to ensure that this permit provides effluent discharge controls consistent with the assumptions and requirements of the Chesapeake Bay TMDL WLA, the Department may require, during the permit review process, and at any time after the issuance of the permit coverage, additional BMPs and controls to protect public health and to protect, maintain and restore water quality, and the existing and designated uses of waters of the State. For AFOs within the Chesapeake Bay watershed, this may include additional BMPs listed in Maryland's Watershed Implementation Plan (WIP) for Chesapeake Bay. These BMPs may include, but are not limited to, the agricultural practices set forth under the following categories contained in the WIP: Nutrient Management/Annual Practice; Other Practices; Additional BMPs, and; Pasture BMPs.

Pennsylvania's NPDES CAFO general permit

PART C.I. SPECIAL PERMIT REQUIREMENTS

H. Best Management Practices (BMPs)

BMPs for CAFOs are identified in the operation's Nutrient Management Plan and the Erosion and Sediment Control Plan for plowing or tilling activities or for Animal Heavy Use Area operations. At a minimum, the permittee shall implement these BMPs.

The Department may require additional BMPs and controls to protect public health and to protect, maintain and restore water quality and the existing and designated uses of waters of the Commonwealth. For facilities within the Chesapeake Bay watershed, this may include additional BMPs listed in Pennsylvania's Watershed Implementation Plan for Chesapeake Bay. These BMPs may include, but are not limited to, Conservation Tillage, Continuous No-Till, Commodity Cover or Cover Crop, Pasture Management, Dairy Precision Feeding and use of Phytase.

If you have any questions concerning this matter, please let me know.

Respectfully,

Joel

From: Blanco-Gonzalez, Joel

Sent: Friday, March 20, 2015 1:38 PM

To: 'Bowles, Betsy (DEQ)'

Subject: RE: VA NPDES CAFO Permits

Betsy,

In preparation for our phone call, below, please find some thoughts to be discussed:

- Next steps for the petition - In lieu of Virginia's March 17, 2015 responses to the petition, EPA will incorporate this information into its final responses to the petitioner. If any further information is needed from Virginia, we will request it to resolve any outstanding issue in a timely manner. More detailed information will follow.
- Draft NPDES CAFO individual permits for swine operations - As we have discussed, we reserved the scope of our review. By April 12, 2015, EPA will provide general comments upon, objections to, or recommendations with respect to the proposed permits.
- Draft NPDES CAFO individual permits for poultry operations - There are CAFOs located in and out of the Chesapeake Bay watershed. As a recommendation we should identify and assign the decision-facilitating function and decision-influence function during the decision-making process to help better develop a schedule for permit development and issuance. Further discussion is needed.
- NPDES CAFO permit requirements for existing and applicable TMDLs - We will be recommending to be considered, the TMDL requirement set forth in Maryland's NPDES CAFO general permit (MDG01), issued December 1, 2014, to address our TMDLs concerns.

If you have any questions concerning this matter, please let me know.

Respectfully,

Joel

-----Original Appointment-----

From: Blanco-Gonzalez, Joel

Sent: Friday, March 20, 2015 1:00 PM

To: Blanco-Gonzalez, Joel; Bowles, Betsy (DEQ)

Subject: VA NPDES CAFO Permits

When: Monday, March 23, 2015 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Phone Call

The purpose of this phone call is to follow up on what was discussed during our March 20, 2015 conference call.

- Next Steps for the petition
- Draft NPDES CAFO individual permits for swine operations
- Draft NPDES CAFO individual permits for poultry operations
- NPDES CAFO permit requirements for existing and applicable TMDLs

From: Blanco-Gonzalez, Joel

Sent: Thursday, April 16, 2015 4:23 PM

To: 'Bowles, Betsy (DEQ)' <Betsy.Bowles@deq.virginia.gov>

Cc: 'Trulear, Brian' <trulear.brian@epa.gov>; Smith, Mark <Smith.Mark@epa.gov>

Subject: RE: Draft Permit Comments - CAFO Murphy Brown LLC Farms

Betsy,

This is to inform you that our April 10, 2015 comments were based on the draft NPDES CAFO individual permits below.

- CAFO Murphy Brown LLC Farms 9, 10, 21 (VA0C40001)
- CAFO Murphy Brown LLC Farms 12 (VA0C40002)
- CAFO Murphy Brown LLC Farms 13-14 (VA0C40003)
- CAFO Murphy Brown LLC Farms 15 (VA0C40004)
- CAFO Murphy Brown LLC Farms 16-17 (VA0C40005)
- CAFO Murphy Brown LLC Farms 18-20 (VA0C40006)

If you have any questions concerning this matter, please contact us.

Respectfully,

Joel

Joel Blanco-González

NPDES Permits Branch (3WP41)

Office of Permits and Enforcement

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Phone: (215) 814 - 2768 | Fax: (215) 814 - 2302

Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel
Sent: Friday, April 10, 2015 1:51 PM
To: 'Bowles, Betsy (DEQ)'
Cc: Trulear, Brian; Smith, Mark
Subject: Draft Permit Comments - CAFO Murphy Brown LLC Farms

Betsy,

According to the Memorandum of Agreement (MOA) between the U.S. Environmental Protection Agency (EPA) Region III and the Virginia Department of Environmental Quality (DEQ), the EPA has reviewed the draft National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) individual permits for:

- CAFO Murphy Brown LLC Farms 1-5 (VA0C50001)
- CAFO Murphy Brown LLC Farms 6-8 (VA0C50002)
- CAFO Murphy Brown LLC Farms 9, 10, 21 (VA0C40001)
- CAFO Murphy Brown LLC Farms 12 (VA0C40002)
- CAFO Murphy Brown LLC Farms 13-14 (VA0C40003)
- CAFO Murphy Brown LLC Farms 15 (VA0C40004)
- CAFO Murphy Brown LLC Farms 16-17 (VA0C40005)
- CAFO Murphy Brown LLC Farms 18-20 (VA0C40006)

EPA has chosen to perform a limited review based on the draft permit and fact sheet. As a result of our limited review, we offer the following comments and recommendations. Both, the draft permit and fact sheet, as written, lack the necessary information for us to determine whether or not these documents address requirements for total maximum daily loads (TMDLs). These documents should include requirements and DEQ's rationale to implement TMDLs, including the Chesapeake Bay TMDL and Watershed Implementation Plans or discharges to impaired waters. Please address our comments and recommendations, and provide us with any changes to the draft permit, fact sheet, and/or permit components.

If you have any questions concerning this matter, please contact us.

Respectfully,

Joel

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Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel

Sent: Friday, May 01, 2015 9:20 AM

To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>

Cc: Trulear, Brian <trulear.brian@epa.gov>; Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>

Subject: Draft Permit Comments - CAFO Murphy Brown LLC Farms

Dear Betsy,

Re: CAFO Murphy Brown LLC Farms 9, 10, 21 (VA0C40001); CAFO Murphy Brown LLC Farms 12 (VA0C40002); CAFO Murphy Brown LLC Farms 13-14 (VA0C40003); CAFO Murphy Brown LLC Farms 15 (VA0C40004); CAFO Murphy Brown LLC Farms 16-17 (VA0C40005); CAFO Murphy Brown LLC Farms 18-20 (VA0C40006)

Our records show that there are total maximum daily loads (TMDLs) requirements that apply to these concentrated animal feeding operation (CAFO) facilities. A national pollutant discharge elimination system (NPDES) CAFO permit should include requirements to ensure the implementation of applicable TMDLs, and subsequently its fact sheet should document the permitting authority rationale on how an NPDES CAFO permit ensures the implementation of applicable TMDLs.

Best management practices (BMPs) listed in the CAFO's nutrient management plan (NMP) and/or required in an NPDES CAFO permit are regulatory mechanisms to help better address the implementation of applicable TMDLs in a CAFO. A BMP is an NPDES CAFO permit condition used in place of or in conjunction with effluent limitations to prevent or control the discharge of pollutants, which may include schedule of activities, prohibition of practices, maintenance procedure, or other management practice. BMPs may also include, but are not limited to, water quality sampling requirements, treatment requirements, operating procedures, or practices to control runoff, spillage, leaks, or drainage from raw material storage.

An NMP that is part of an NPDES CAFO permit must include, at a minimum, BMPs necessary to achieve the nine minimum requirements of 40 CFR §§ 122.42(e)(1)(i-ix)(minimum measures) and other effluent limitations and standards. The minimum measures must include requirements applicable to both, the production area and the land application area. An NPDES CAFO permit and its NMP shall require and identify specific records that will be maintained to document the implementation and management of the minimum measures, including the documentation of appropriate BMPs as well as other necessary record keeping requirements.

EPA would like to further discuss its concerns on this matter with the Virginia Department of Environmental Quality (DEQ). Could you please provide us with your availability to discuss this and any other related issue? In preparation to our conversation, below please find some questions to be answered.

- Does the NMP include the use of BMPs to control pollutants, including e-coli or its equivalent from the production area and land application for manure area(s) and/or to ensure the implementation of applicable TMDLs?

- If BMPs are being used to control pollutants, including e-coli or its equivalent and or to ensure the implementation of applicable TMDLs, does the NMP specify how they are to be implemented?

Should you have any questions or concerns concerning this matter, please contact us.

Respectfully,

Joel

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Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel
Sent: Thursday, July 16, 2015 11:56 AM
To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>
Cc: Trulear, Brian <trulear.brian@epa.gov>; Zahradka, Neil (DEQ) <Neil.Zahradka@deq.virginia.gov>
Subject: VA NPDES CAFO IPs - Murphy Brown LLC Farms

Betsy,

According to the Memorandum of Agreement (MOA) between the United States Environmental Protection Agency (EPA) Region III and the Virginia Department of Environmental Quality (VADEQ), the EPA has reviewed the draft National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) individual permits for:

- CAFO Murphy Brown LLC Farms 9, 10, 21 (VA0C40001)
- CAFO Murphy Brown LLC Farms 12 (VA0C40002)
- CAFO Murphy Brown LLC Farms 13-14 (VA0C40003)
- CAFO Murphy Brown LLC Farms 15 (VA0C40004)
- CAFO Murphy Brown LLC Farms 16-17 (VA0C40005)
- CAFO Murphy Brown LLC Farms 18-20 (VA0C40006)

EPA has chosen to perform a limited review based on the draft permit and fact sheet we received on June 19, 2015. As a result of our limited review, we offer the following comments and recommendations. As a recommendation, please add the following requirement as set forth in the draft VADEQ NPDES individual permit template for poultry operations.

VA NPDES CAFO IPs for Poultry Operations

PART III.B. LAND APPLICATION REQUIREMENTS

2. *Best Management Practices (BMP): If a BMP or BMPs are utilized, installed or constructed at the facility for water quality protection including the requirements and assumptions of any approved TMDL or in compliance with 40 CFR Part 412, the BMP or BMPs must be maintained onsite for the term of this permit or the life of the practice, whichever is shorter. Details regarding the purpose and maintenance of the BMP shall be included in the facility's Farm Operating Manual. The Department will provide written notification to the owner that a facility is subject to any TMDL requirements.*

Please address our comments and recommendations, and provide us with any changes to the draft permit, fact sheet, and/or permit components. Should you have any questions or concerns regarding this matter, please contact us.

Respectfully,

Joel

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Phone: (215) 814 - 2768 | Fax: (215) 814 - 2302
Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel

Sent: Friday, August 22, 2014 5:41 PM

To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>

Cc: Cruz, Francisco <Cruz.Francisco@epa.gov>; Trulear, Brian <trulear.brian@epa.gov>; Smith, Mark <Smith.Mark@epa.gov>; Zolandz, Mark <Zolandz.Mark@epa.gov>

Subject: VA NPDES CAFO Permits

Betsy,

Based on the Virginia Department of Environmental Quality (VADEQ) August 4, 2014 responses, our August 20, 2014 phone conversation, and subsequent email correspondence, including attachments, we offer the following comments. The U.S. Environmental Protection Agency (EPA) Region III has highlighted concerns regarding the requirements set forth in National Pollutant Discharge Elimination System (NPDES) concentrated animal feeding operation (CAFO) regulations, and how a nutrient management plan (NMP) justifies and documents its terms and requirements. We acknowledge that the NMPs were developed following the guidance of the "Virginia Nutrient Management Standards and Criteria" which is incorporated by reference in the "Nutrient Management Training and Certification Regulations 4 VAC 5-15."

As we have discussed, these regulations and guidance, address some, but not all, the requirements set forth in 40 CFR § 122.42, applicable effluent limitations and standards, including those specified in 40 CFR Part 412. The NMP shall meet the nine minimum requirements set forth in 40 CFR § 122.42(e)(1). An NMP shall discuss the required nine minimum elements of an NMP in a clear, consistent, and accurate manner. An analysis of how criteria of the federal nine minimum requirements are met, shall be included in NMPs to enhance the planning clarity, and to assure that requirements and recommendations have been used to develop the NMP in accordance with applicable NPDES CAFO regulations.

Below you will find options to address these issues:

- The NMP could be further improved with providing forms and notes for how an NMP complies with applicable NPDES CAFO regulations.
- A rationale could be included in the fact sheet or basis of limitations that clarifies, justifies, and documents that the terms of the NMP comply with applicable NPDES CAFO regulations (e.g. "Correlation to Nine Elements").
- The draft permit as written proposes to require the permittee to develop and submit a Farm Operating Manual (FOM) for approval by the Department within 90 days of the effective date of the permit. For this plan, VADEQ imposed a compliance schedule to provide the permittee with a time frame to achieve compliance with terms and conditions of this draft permit pursuant to 40 CFR § 122.47. The FOM as proposed, addresses, some, but not all, the nine minimum requirements. The FOM could be further improved with providing forms and notes for how an NMP complies with applicable NPDES CAFO regulations.

These will be used as a framework for our September 8, 2014 conference call. We will continue to work cooperatively with VADEQ to resolve any outstanding issues in a timely manner. If you have any questions concerning this matter, please let me know or contact Mr. Mark Smith at (215) 814-3105.

If you have any questions concerning this matter, please let me know.

Respectfully,

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Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel

Sent: Monday, August 24, 2015 6:35 PM

To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>

Cc: Trulear, Brian <Trulear.Brian@epa.gov>; Zahradka, Neil (DEQ) <Neil.Zahradka@deq.virginia.gov>; Smith, Mark <Smith.Mark@epa.gov>

Subject: RE: VA NPDES CAFO IPs - Murphy Brown LLC Farms

Betsy,

Thank you for replying to our comments. Based on our email correspondence, including attachments, we will not be providing any additional comment to the issuance of these permits. If for any reason, the draft permits are modified from the versions that were submitted to us on August 24, 2015, please forward a copy of the new draft permits to us for review before issuance. Should you have any questions or concerns regarding this matter, please contact us.

Respectfully,

Joel

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Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel

Sent: Thursday, September 11, 2014 12:08 PM

To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>

Cc: 'Trulear, Brian' <trulear.brian@epa.gov>; Cruz, Francisco <Cruz.Francisco@epa.gov>; Zolandz, Mark <Zolandz.Mark@epa.gov>; Smith, Mark <Smith.Mark@epa.gov>; Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>

Subject: VA NPDES CAFO Permits

Betsy,

Thank you for our September 8, 2014 conference call regarding VADEQ's draft NPDES CAFO permit. Based on our discussion, we agreed that VADEQ will revise its draft permit, fact sheet, and the permit application form, including an application addendum, to address the federal nine minimum requirements, specifically mortality and chemical handling which are not currently addressed in Virginia's NMPs. Revisions made to these documents will ensure compliance with applicable NPDES CAFO regulations, including public notice requirements for the permit and NMP. Once VADEQ has submitted to us a final draft NPDES CAFO permit, EPA will provide general comments upon, objections to, or recommendations with respect to the proposed permit.

We look forward to reviewing a revised complete permit package once these revisions have been made.

If you have any questions concerning this matter, please let me know.

Respectfully,

Joel Blanco-González
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Phone: (215) 814 - 2768 | Fax: (215) 814 - 2302
Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel

Sent: Tuesday, October 07, 2014 1:35 PM

To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>; Zahradka, Neil (DEQ) <Neil.Zahradka@deq.virginia.gov>

Cc: Trulear, Brian <trulear.brian@epa.gov>; Cruz, Francisco <Cruz.Francisco@epa.gov>; McGuigan, David <m McGuigan.david@epa.gov>; Smith, Mark <Smith.Mark@epa.gov>; Zolandz, Mark <Zolandz.Mark@epa.gov>; Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>; Capacasa, Jon <Capacasa.jon@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>

Subject: Virginia's First NPDES CAFO Permits

Good Afternoon,

According to the Memorandum of Agreement (MOA) between the U.S. Environmental Protection Agency (EPA) Region III and the Virginia Department of Environmental Quality (DEQ), EPA has reviewed the draft National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) individual permits for the Murphy Brown LLC, Farms 1-5 (VA0C50001) and the Murphy Brown LLC, Farms 6-8 (VA0C50002)(hereinafter referred to as the "draft permit") submitted by DEQ on September 29, 2014. As a result of our review, and pursuant to 40 CFR § 123.44, the purpose of this e-mail is to provide DEQ with EPA's final position on the draft permit.

The draft permit as written builds upon DEQ's draft permit transmittals, EPA's comments and recommendations, and our subsequent conversations. Since the commencement of the draft permit package review process in May 2014, the collective efforts between agencies culminated in numerous improvements to the draft permit. We appreciate the extensive work and close communication between us in the process to ensure a successful outcome. We look forward to continuing our cooperation as DEQ works to meet its responsibilities of implementing its NPDES CAFO program. This e-mail closes out our review, and therefore we will not be providing any additional comments regarding the draft permit.

We have no objection to the issuance of the draft permit as written. If for any reason, the draft permit is modified from the version that was submitted to us on September 29, 2014, please forward a copy of the new draft permit to us for review before issuance. If you have any questions concerning this matter, please let me know.

Respectfully,

Joel Blanco-González
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Email: blanco-gonzalez.joel@epa.gov

From: Blanco-Gonzalez, Joel

Sent: Friday, October 17, 2014 1:27 PM

To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>; Zahradka, Neil (DEQ) <Neil.Zahradka@deq.virginia.gov>

Cc: Trulear, Brian <trulear.brian@epa.gov>; Cruz, Francisco <Cruz.Francisco@epa.gov>; Smith, Mark <Smith.Mark@epa.gov>; Zolandz, Mark <Zolandz.Mark@epa.gov>

Subject: EPA Completes Review of Virginia's First NPDES CAFO Individual Permits

Good Afternoon,

On October 7, 2014, the U.S Environmental Protection Agency (EPA) Region III communicated to the Virginia Department of Environmental Quality (DEQ) that EPA had no further comments on the first two National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) individual permits and has completed its review for the Murphy Brown LLC, Farms 1-5 (VA0C50001) and the Murphy Brown LLC, Farms 6-8 (VA0C50002).

Based on our e-mail correspondence and conversations, we agreed that DEQ will move forward with making the draft NPDES CAFO permits available for public comment, and if no major comments are received during the public comment period, DEQ plans to issue its first NPDES CAFO individual permits following the public comment period due date. It is our understanding that DEQ has been drafting additional NPDES CAFO individual permits. We look forward to working with you to finalize these draft NPDES CAFO permits, and then to performing our review of the proposed draft NPDES CAFO permits in a timely manner.

If you have any questions concerning this matter, please let me know.

Respectfully,

Joel

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From: Blanco-Gonzalez, Joel

Sent: Friday, June 20, 2014 5:33 PM

To: Bowles, Betsy (DEQ) <Betsy.Bowles@deq.virginia.gov>

Cc: Trulear, Brian <Trulear.Brian@epa.gov>; Cruz, Francisco <Cruz.Francisco@epa.gov>; Smith, Mark <Smith.Mark@epa.gov>

Subject: VA NPDES CAFO Permits

Betsy,

Based on our preliminary review of the draft permits, including their Nutrient Management Plans (NMPs), we offer the following comments. These comments follow up on our June 4, 2014 phone conversation. More detailed information will follow.

If you have any questions concerning this matter, please let me know.

Respectfully,

Joel Blanco-González

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Preliminary Comments on VADEQ's NPDES CAFO Permits

Re: CAFO Murphy Brown LLC, Farms 1-5 (VA0C50001)
CAFO Murphy Brown LLC, Farms 6-8 (VA0C50002)

Based on our preliminary review of the draft permits, including their Nutrient Management Plans (NMPs), we offer the following comments. These comments follow up on our June 4, 2014 phone conversation. More detailed information will follow.

Draft Permits

1. It is our understanding that Part II.C.4. Farm Operation Manual (FOA) addresses/complements, some but not all, of the nine minimum requirements for NMPs set forth in 40 CFR § 122.42(e)(1)(i-ix). Please provide us with a FOA for our review and comments.

NMPs

1. An NMP is a detailed planning document that identifies conservation practices and management activities that, when implemented, help to ensure that both production and natural resource protection goals are achieved. The objective of an NMP is to document those practices and activities that will help achieve the goals of the producer and protect or improve water quality.

Every NPDES permit issued to a CAFO must require that the CAFO implement the terms of a site-specific NMP approved by the Director pursuant to 40 CFR § 122.42(e)(5). Those site-specific terms of the NMP are defined as “the information, protocols, best management practices (BMPs), and other conditions” identified in a CAFO’s NMP and determined by the permitting authority to be necessary to meet the requirements of 40 CFR part 122.42(e)(1). In order to meet those requirements, the information, protocols, BMPs, and other conditions in the NMP must, at a minimum, address the following: manure storage, mortality management, clean water diversions, prevention of direct animal contact with water, chemical handling, conservation practices to control runoff, manure and soil testing protocols, land application protocols and record keeping requirements pursuant to 40 CFR § 122.42(e)(1). For a detailed discussion of each of the minimum measures, see Chapters 5 and 6 of the NPDES Permit Writers’ Manual for CAFOs.

We have worked closely with you in the past to develop an NPDES CAFO permit template to be used as a guidance on a case-by-case basis. Virginia’s first NPDES CAFO permit represents a step in program development, and with this and each subsequent permit approval in Virginia, the program improves.

Although the nine minimum requirements for NMPs set forth in 40 CFR § 122.42(e)(1)(i-ix) have been addressed in 9VAC25-31-200(E)(1)(a-i), the NMP must discuss the required elements of an NMP in a clear, consistent, and accurate manner. The NMP as written is general in nature, and lacks a description of how a facility will implement its individual NMP.

An analysis of how criteria of the federal nine minimum requirements are met, must be included in NMPs. These analyses should be based on best professional judgment, inspections, and requirements set forth in 40 CFR § 122.42, applicable effluent limitations and standards, including those specified in 40 CFR part 412. Enclosed is a cross-referenced chart of specific comments and recommendations that addresses the information that the NMPs be deficient in. Some of our comments and/or recommendations have included the level of detail in NMPs, how NMPs reflect implementation of the Virginia’s technical standards, and how NMPs will insure that the nine minimum requirements set forth in 40 CFR § 122.42(e)(1)(i-ix) are achieved.

Fact Sheet

1. Page 13/130, 32. *EPA comments received on draft permit states that EPA has no*

Preliminary Comments

objections to the adequacy of the draft permit. EPA reserves the right to provide general comments upon, objections to, or recommendations with respect to the proposed permits.

Preliminary Comments

40 CFR § 122.42(e)(1)(i-ix)	VA NMP Locations	Comments
122.42(e)(1)(i) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities.	<ul style="list-style-type: none"> • Secondary Containment Document • Narrative • Manure Production Summary • Liquid Manure Production Details • NMP Special Conditions 	<p>An analysis of adequate storage is missing. This analysis, at a minimum, should include:</p> <ul style="list-style-type: none"> • The storage capacity, including its calculations; annual manure production (based on calculation or records); manure export timing/amounts; process wastewater collection systems must meet the ELG for zero discharge except from a 24-hr/25-year storm.
122.42(e)(1)(ii) Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities.	<ul style="list-style-type: none"> • NMP Special Conditions 	<p>An analysis of proper mortality management is missing. This analysis, at a minimum, should include:</p> <ul style="list-style-type: none"> • The NMP should include a description of the method of mortality management used on each facility, and how that method is performed. • The designated locations where mortalities are handled, as well as mortality handling procedures, should be described to ensure that mortalities on this facility are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities • For instance, if composting, how is composting performed (i.e., it is mixed with other manure, is it included in the manure analysis?). How was the mortality management structure or area designed, constructed and maintained to handle mortalities and divert clean water or collect process wastewater?
122.42(e)(1)(iii) Ensure that clean water is diverted, as appropriate, from the production area.	<ul style="list-style-type: none"> • Secondary Containment Document • NMP Special Conditions 	<p>An analysis of clean water diversion is missing. This analysis, at a minimum, should include:</p> <ul style="list-style-type: none"> • For instance, the following questions may assist to develop an analysis of clean water diversion: have erosion controls and diversion practices been designed, constructed, operated, and maintained to divert clean water from the production area.
122.42(e)(1)(iv) Prevent direct contact of confined animals with waters of the United States.	<ul style="list-style-type: none"> • No related language was found. 	<p>An analysis that confined animals cannot directly contact WOUS is missing. This analysis, at a minimum, should include the following:</p> <ul style="list-style-type: none"> • Are there confined animals on this facility that have access to WOUS?, and; what measures are in place to keep confined animals from directly contacting WOUS (e.g., stream bank fencing, stream crossings, etc)?

Preliminary Comments

40 CFR § 122.42(e)(1)(i-ix)	VA NMP Locations	Comments
122.42(e)(1)(v) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants.	<ul style="list-style-type: none"> Secondary Containment Document 	<p>An analysis of chemical handling is missing. This analysis, at a minimum, should include:</p> <ul style="list-style-type: none"> The designated locations where chemicals are stored, as well as chemical handling procedures, should be described to ensure that chemicals on this facility do not come into contact with manure or process wastewater. A prevention plan could be developed to explain how to avoid spills, how to properly dispose of chemicals, and what to do in the event of a spill.
122.42(e)(1)(vi) Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States.	<ul style="list-style-type: none"> Narrative USDA Maps NMP Special Conditions 	<p>The NMP needs to document all BMPs in place, and shall require continued implementation of these BMPs as well as any new BMP that may be installed/implemented.</p> <ul style="list-style-type: none"> For instance, NMPs should include an additional section that describes site specific BMPs that are implemented on a particular facility. The NMP planner would complete this section after visiting the farm and would describe site specific nutrient management practices, site specific conservation practices, and BMPs currently in place on the facility, as well as those applicable to this facility that need to be installed but are not in place yet, if any. This section should include a description for each practice detailing how a particular practice is/was designed, constructed, operated, and maintained (if applicable). Recordkeeping requirements should be included (could reference a form) to ensure continued implementation and maintenance of all existing BMPs.
122.42(e)(1)(vii) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil.	<ul style="list-style-type: none"> Soil Maps (Fields) Soil Test Summary Manure Production Summary Liquid Manure Production Details NMP Special Conditions 	<p>The NMP needs to document all lab reports (e.g., soil and manure). These reports are to be dated and signed. The lab(s) may include recommendations.</p>

Preliminary Comments

40 CFR § 122.42(e)(1)(i-ix)	VA NMP Locations	Comments
122.42(e)(1)(viii) Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater.	<ul style="list-style-type: none"> • Narrative • Use of hog manure effluent in cropping rotations • USDA Maps • Nutrient Balance Sheet • NBS Notes • Manure Production Summary • Liquid Manure Production Details • NMP Special Conditions • 	The NMP addresses this element.
122.42(e)(1)(ix) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in paragraphs (e)(1)(i) through (e)(1)(viii) of this section.	<ul style="list-style-type: none"> • NMP Special Conditions 	<p>Record keeping-related requirements are found in multiple locations throughout the NMP Special Conditions document.</p> <ul style="list-style-type: none"> • It may be helpful for the permittee if the requirements to maintain all necessary records are listed in a single location. Providing Record Keeping Forms may help to ensure compliance with the Clean Water Act.

Preliminary Comments

VA NMP Language

Narrative

Use of hog manure effluent in cropping rotations

- Double-crop sorghum

- Soybeans

Collecting Information (DEQ Inspection)

Recovery Process

- Stop the source

- Contain the flow

- Contact the appropriate authority

- Stay with the incident until relieved

- Recovery depends on the contaminant (e.g., for waste water the water would be pumped either back into the lagoon or recovered and land applied to an application field).

Maps

NMP Balance Sheet (NBS)

- Commercial Application Method

- Notes (NBS)

Soil Test Summary

Manure Production Summary

- Liquid Manure Production Details

- Net Precipitation Excess

NMP Special Conditions for VPA and VPDES

- Soil Samples

- Soil Test Analysis

- Representative Manure Sample

- Crops

- Manure Application Schedule

- Hay/Pasture

- Manure Application Uniform

- Setbacks

- Manure Runoff

- Manure Odor

- Liquid Irrigation

- Spreader Calibration

- New Waste Storage

- Earthen Storage

- New Lagoons

- Anaerobic Lagoons

- Waste Discharge

- Waste Handling Structure

Preliminary Comments

Composting of Animal Mortalities
Monitor Groundwater
NMP Amendments Based on Crop
NMP Amendments Process/Criteria
NMP Minor Changes
NMP Modification Timing
Conditions do not override
Manure Spreading Schedule
 Swine Manure Spreading Schedule
Closure of Animal Waste Storage Facilities

